

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

HSBC BANK USA N.A. as trustee for
HOME EQUITY LOAN TRUST SERIES
ACE 2006-HE1,

No. C 13-1968 RS

**ORDER ADOPTING REPORT AND
RECOMMENDATION TO REMAND**

Plaintiff,

v.

MARK SERRATO, et. al.,

Defendants.

The United States Magistrate Judge to whom this action was initially assigned issued a report and recommendation that plaintiff's motion to remand this action to the Superior Court of California for Alameda County be granted. *See* Dkt. 10. Specifically, in the Report dated June 14, 2013, the Judge found: (1) defendants' removal was untimely, (2) no diversity jurisdiction exists because the amount in controversy is less than \$10,000, (3) there is no federal question jurisdiction as the complaint's only claim for relief is for unlawful detainer under state law, and (4) defendants' argument that the Protecting Tenants at Foreclosure Act (PTFA) confers federal question jurisdiction fails because, although they may use the PTFA as a defense in their state law proceedings, such a defense does not create subject matter jurisdiction in federal court. *See id.* at 4 (citing *Holmes Group, Inc. v. Vornado Air Circulation Sys., Inc.*, 535 U.S. 826, 830-32 (2002) (discussing well-pleaded complaint rule)).

1 No party has filed objections to the Report and Recommendation, and it is adopted and
2 incorporated in full. The case is remanded and the Clerk is directed to close the case file.

3 IT IS SO ORDERED.

4
5 Dated: 7/1/13



RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE